

Iowa People and Events ...

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Served Well His Adopted State

A Virginian, Judge James M. Love, later of Keokuk, a most able attorney, became one of Iowa's leading public men. As a law partner many years of Dan F. Miller, Sr., he was a widely known lawyer. He served in the Iowa state senate in the Fourth and Fifth General Assemblies, in 1852 and 1854, thereafter becoming judge of the Federal court in the Southern Iowa district, presiding over that court during its last sessions at Iowa City in occupancy of the old capitol building, and enjoyed a long tenure in that position.

In later life Judge Love was chancellor of the law department of the State University of Iowa from 1875 to 1887, and was revered for his ability and legal learning. Speaking of him personally, Hon. Peter A. Dey once paid him the compliment of saying: "Of his judicial career lasting more than 30 years, it is only necessary to say that, to the best of my knowledge, every attorney who practiced in his court had full confidence in his innate integrity and his ability to correctly expound the law. I never heard his name mentioned but with profound respect."

Judge Love was famous for his lectures on the law, and in March, 1886, a considerable audience greeted him in Irving hall at the university at Iowa City, and listened appreciatively to his lecture on the "progress of the Common Law," of which the following is recorded as a brief synopsis:

The criminal code of England only a few years ago was a code of blood. Nearly all crimes were punished capitally. They proceeded on the ground that dead men commit no crimes.

Constitutions are not made, they grow. This is also true of municipal law. The system of law is not a creation, it is a growth; it is a development, starting from a weak spring

it becomes a mighty stream. Our own Mississippi is a true emblem of the growth and expansion of law.

The Magna Carta was a glorious instrument, but it was only free men who came under its protection, thus excluding, by its terms, one-half the people. Every law must have within itself the rules of universal justice. The common law contains many rules and principles just and beneficent, and many that are unjust and unreasonable.

By the common law imprisonment for debt existed. The wife was held to be a legal nonentity. The landlord could without trial or judgment take almost anything from the tenant to satisfy his claim for rent. Forfeiture of estate was caused by a conviction of felony. The law of primo-geniture prevailed, thus giving the oldest son, the one most capable of taking care of himself, the entire estate, their motto being, "The greatest good to the least number." The common law seal imposed absolute silence as to the consideration of the instrument, thus subverting the fundamental rules of all contracts.

It is the nature of man to love his natural liberty. Man accepts and adopts the law not because it is agreeable, but as a necessary evil. Better government and higher taxes are the results of civilized life. Law brings harmony out of discord and stays the uplifted hand of violence. It is evident that law implies force both physical and moral. In civilized society, force is transferred from the individual to the community. People live without even thinking that law is all around them and forget the great moral influence it has. The common law of England was the child of the feudal system, and had its origin and growth during the dark days of the Middle Ages. It grew to maturity amid scenes of chaos. The great fault of the common law was its want of the spirit of equity or natural justice. Any law without the spirit of equity cannot stand the progress of civilization. Hence arose the system of equity in England.

Indian Removal Contract Deposited

From an unexpected source comes for filing in the Iowa Department of History & Archives the original contract between a representative of the United States government in the person of Brevet Major S. Woody and A. D. Stephen, whereby the latter agreed to remove for three dollars and fifty cents a head certain Indians, male and female, from this state to "their

home west of the Missouri river," there to be turned over to the U. S. sub-agent.

This valuable and interesting document has been delivered to the Iowa department by Mrs. Robert A. (Ethyl F.) Weldon of Easton, Pennsylvania, who states:

Among my late husband's papers, I found an original contract pertaining to the moving of the Indians from the state of Iowa "to their homes west of the Missouri river." This document is dated June 1, 1850 and was between Major S. Woody, U.S. Army, and A. D. Stephen, the latter my husband's grandfather.

I feel this document should be turned over to the Iowa State Department of History and Archives, or to the Indian Affairs to be preserved.

As the larger groups or tribes of Indians were removed from Iowa in the earlier forties, this later contract evidently covered smaller parties or groups that evaded compliance with the governmental orders when such action originally took place. The Sac and Fox Indians under Chief Keokuk who had camped for a long period just southeast of the Des Moines fort and settlement at one time numbered more than 20,000; but wars and privations covering years had reduced them so that only about 500 were escorted to Kansas in 1846. Some protesting stragglers remained in Iowa, as well as similar rebellious members of the Winnebago and Pottawattamie tribes, sturdily refusing to voluntarily leave Iowa. Doubtless these were the groups later covered by the Stephen contract, which reads as follows:

CONTRACT FOR REMOVAL OF INDIANS FROM IOWA

DATED JUNE 1, 1850

This contract entered into this 1st day of June, 1850 at Camp near "Marengo" State of Iowa, between Bvt. Maj. S. Woody U.S. Army & Mr. A. D. Stephen of the State of Iowa witnesseth: that for the consideration hereinafter mentioned the said A. D. Stephen promises & agrees to remove from the State of Iowa, certain Sacs & Fox, Pottawattamie & Winnebago Indians, now in said state, to *their homes west* of the Missouri River, there to be turned over to the U.S. Sub-Agent for the Sacs & Fox Indians & upon the written acknowledgment of said sub-agent that said Indians have been there

delivered, specifying their numbers, the said A. D. Stephen shall receive a per capita etc. as hereinafter stated.

And the said Bvt. Maj. Woody U. S. Army promises & agrees, on behalf of the U States to pay for each & every Male & Female then delivered a[s] undertaken by the said A. D. Stephens the sum of *three dollars & fifty cents* & the said Bvt. Maj. Woody U.S. Army on behalf of the U States agrees further to pay to the said A. D. Stephen the sum of *five hundred dollars* to be expended by him in provisions & other necessary articles to enable them to reach their homes; provided the *entire sum* (the per capita included) does not exceed *two thousand dollars*.

Witness

(Signed) S. Woody

(Signed) L. Fairfax Dashiell

Bvt. Maj. U.S.A., Seal

I. W. V. Gardner

R. I. Brags

(Signed) A. D. Stephen

The gift was gratefully received and the document catalogued, indexed and placed in the department collection of manuscripts.

Rare Specimen of Iowa Paper

One of the valued copies of an Iowa weekly paper in the files of this department is the first issue of the *Lansing Intelligencer*, Volume 1, No. 1, dated November 23, 1852, W. H. Sumner, editor. The motto (as was the custom in early days) was "A New Home—Who'll Follow?"

In those days Lansing was the port of entry to all northeastern Iowa, and furs and products of North Iowa were hauled to the Mississippi river there and shipped to Dubuque, Galena and other points further south. Mail was received and dispatched by river boats. Lansing was the important town of that section.

The four-page *Intelligencer* was liberally patronized by business firms in its advertising columns, along with others located at both Galena and Dubuque. The news columns are filled with general rather than local news, the type face being six point leaded, with single line head-lines. The paper stock seems a light weight book widely used by the publications of that day. The most lengthy advertisements were set in

small type in single columns, of druggists listing in small print items usually sold in those establishments, very little display type as used by papers today being in evidence, and no cuts of any kind employed. Land agencies at Galena and Dubuque were well represented.

Territorial Governor's Advice

The evils of overlegislation are so generally acknowledged, that any attempt by me to impress the important truth upon your minds, would justly be looked upon as supererogation. At the same time that we concede the evil, however, we have not avoided running into it; for perhaps no community ever suffered more severely from the cause in question, than have the people of Iowa. — Stability in the laws (presuming them to be wisely framed) is of the utmost importance to those for whose benefit they were enacted; but with us, few enactments are permitted to remain long enough on the statute book to permit their wisdom to be tested.

The magnitude of the evil is felt and complained of by the public; and I should feel that part of my duty had been omitted, did I pass by the subject without, in some manner, alluding to it. In view of our admission into the Union as a State at an early period, the fewer the changes made in our statute book, the better. Acts of pernicious tendency, it is true, should not be permitted to remain in existence after being tested and condemned by time; but the point to be avoided is, legislation for legislation's sake.

I trust and believe that the Legislature will be found to entertain views on this subject similar to my own; and that, animated by wise counsels and patriotic considerations, it will limit its action to such subjects only as are of pressing importance, and are conceded to require the interposition of the law.—From the First Annual Message of Territorial Governor James Clarke, December 3, 1845.

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